

EXHIBIT

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

STATE OF MISSOURI, et al.,

Plaintiffs,

v.

No. 4:21-cv-01300

JOSEPH R. BIDEN, JR., et al.,

Defendants.

DECLARATION OF TARA EVANS

Pursuant to 28 U.S.C. § 1746, I hereby declare that the foregoing is true and correct:

1. I am Vice President and General Counsel for the University of Wyoming. In that capacity, I am Chief legal advisor for the University, Board of Trustees, President and University officers and administrators. I manage all litigation matters involving the University. I am also a resident of Wyoming and am over the age of majority. I have personal knowledge of all facts stated in this declaration.

2. The University of Wyoming, which is a State entity, has a number of federal contracts, including cooperative agreements and subcontracts, with various federal agencies that are either up for a renewal or extension or expected to be awarded to the University in the near future.

3. Currently, the University approximates it has eighteen federal contracts and subcontracts for a total of \$1.9 million.

4. A federal contract with the Department of the Army and a federal subcontract with Sandia National Laboratories are currently above \$250,000 and the University is expecting additional funding for those agreements in the future. In addition, the University has a separate federal

subcontract with Sandia National Laboratories which is less than \$250,000 but the University is expecting additional funding as part of that agreement in the near future which will increase the amount to over \$250,000.

5. The University has approximately 125 active cooperative agreements for a total of approximately \$138 million.

6. Approximately fifty-three of the 125 cooperative agreements are currently above \$250,000 which accounts for approximately \$132 million of the total funding.

7. On October 18, the University received a notice from one of its prime contractors, Leidos, indicating that to receive an extension of its subcontract past December 23, 2021, the University is required to sign Modification #2, which incorporates the requirements of Executive Order 14042. The research supported under this proposal is aimed at identifying and securing a domestic source of rare elements from Wyoming coal basins. Rare earth elements are necessary for a wide range of products including cellular devices, computer hard drives, electric vehicles, flat-screen monitors, magnets, and significant national defense applications such as electronic displays guidance systems, lasers, and radar. Today most rare earth elements (>85%) are sourced and processed in China. Identifying and securing a domestic supply of rare earth elements is important to national and energy security. The Leidos modification includes language that the University will comply with all federal guidance and FAQ's published by the Safer Federal Workforce Task Force, which includes the requirement that covered contractor employees be fully vaccinated no later than December 8. Leidos is insisting the University sign the agreement despite this subcontract being under the \$250,000 threshold amount. The Leidos contract supports salary for three research scientists at the University's School of Energy Resources and has funded one graduate student. Leidos did not give a specific date that the University must sign the modification,

but made it clear that the University must comply to maintain the current contract. Since the subcontract does not meet the EO threshold amount of \$250,000, the University has requested a delay in compliance until March 1, 2022, but has not yet received an answer from Leidos.

8. On October 25, the University received an email notice from the National Science Foundation that it will be implementing EO 14042 in all of its cooperative agreements, including existing cooperative agreements by amendment. The language adopts the federal guidance but limits its applicability to subawards that exceed the \$250,000 threshold. The University's King Air Facility would be affected by this change and is among those up for incremental funding in August 2022. The King Air Facility is a National Atmospheric Research Facility that runs numerous deployments for National Science Foundation investigators nationally and internationally. The University is also developing a new research aircraft that will enhance the University's climate, severe weather, and wildfire smoke impact research capabilities and is expected to be available for deployments in 2023. In addition to the research, the King Air is a nationally critical facility for lower atmospheric research. The cooperative agreement fully funds 16 employees and partially funds six employees. All of this would be jeopardized if the University does not receive the incremental funding. The National Science Foundation notice stated specifically that they have updated their Cooperative Agreement Financial and Administrative Terms and Conditions to implement EO 14042 and that the revised Terms and Conditions will apply to all new cooperative agreements and funding amendments to existing cooperative agreements made on or after October 25, 2021.

9. The University's Established Program to Stimulate Competitive Research (EPSCoR) projects are under National Science Foundation cooperative agreements. In August 2022, the University expects to receive an amendment and a potential new award of \$4,190,348 between the

two University lead projects. If the University does not receive this funding, it will affect a total of 54 employees (postdoctoral researchers, graduate students, undergraduate students and staff); subawards with other institutions of higher education, a Wyoming Community College and a small business; and collaborations with the Wyoming Wind River Reservation and industry.

10. The University has a federal contract with the Department of the Army for funding on a multi-year project to install and monitor Mesonet sites in Wyoming which connect as part of the Upper Missouri River Basin Plains Snowpack and Soil Monitoring Station. This project has a maximum ceiling of \$8,000,000, and if the University were to lose funding to complete the project it will have state and national impacts on proper weather monitoring. The full establishment of the network will have significant economic value along with the improved climatic and hydrologic data for Wyoming and the nation. The data from the network will be of great value to hydrologic and climate researchers at the University and nation and greatly improve the ability to work with State and Federal partners in addressing water resource management needs in Wyoming. The University has not received an official notice regarding incorporation of EO 14042 on this federal contract, but anticipates notice within the next couple months related to its next task order, which includes funding for three Mesonet sites.

11. The University has a number of other federal contracts that currently are under the \$250,000 threshold but as they are renewed will be over the threshold. The University anticipates receiving notices to comply with EO 14042 on these contracts, including a contract with Sandia National Laboratories in December 2021 and May 2022 that involves advanced grid modeling and an atmosphere to electrons (A2e) program. The loss of these federally funded projects would result in loss of positions at the University, loss of time on critical research areas, loss of research educational opportunities for students, and would have state and national impacts.

12. As of October 25, the University has approximately 2,846 total benefited employees and 3,555 total non-benefited employees (of these non-benefitted employees, approximately 1,726 are student employees who are taking some credit hours at the University).

13. A large portion of these employees could be impacted by the federal contractor requirements due to the portion of the mandate that those on campus who interact with the University employees working on, or in connection with, a federal covered contract are subject to the federal requirements.

14. Per the guidelines, these interactions could take place even in common areas such as a parking garage, lobby, and elevators resulting in a potentially broad application.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on this 4th day of November 2021.



Tara Evans
Vice President and General Counsel
University of Wyoming

